

MONO COUNTY

Audit Report

COURT REVENUES

July 1, 2003, through June 30, 2009



JOHN CHIANG
California State Controller

March 2011



JOHN CHIANG
California State Controller

March 4, 2011

The Honorable Brian Muir
Director of Finance
Mono County
Courthouse Annex II Bryant Street
Bridgeport, CA 93517

Hector Gonzalez
Court Executive Officer
Superior Court
Mono County
452 Old Mammoth Rd., 3rd Floor
Mammoth Lakes, CA 93546

Dear Mr. Muir and Mr. Gonzalez:

The State Controller's Office audited Mono County's court revenues for the period of July 1, 2003, through June 30, 2009.

Our audit disclosed that the county underremitted \$121,920 (net) in court revenues to the State Treasurer because it:

- Overremitted the 50% of excess qualified fines, fees, and penalties by \$75,666,
- Underremitted State Court Facility Construction Fund penalties and DNA penalty assessments by \$191,711,
- Underremitted evidence-of-financial-responsibility fees by \$5,875.

The county should differentiate the individual accounts making up this amount on the bottom portion of the monthly TC-31, Remittance to State Treasurer, in accordance with standard remittance procedures. The county should state on the remittance advice that the account adjustments relate to the SCO audit for the period of July 1, 2003, through June 30, 2009.

Please mail a copy of the TC-31 and documentation supporting the corresponding adjustment(s) to the attention of the following individuals:

Mike Spalj, Audit Manager
Division of Audits
State Controller's Office
Post Office Box 942850
Sacramento, CA 94250-5874

Cindy Giese, Collections Supervisor
Division of Accounting and Reporting
Bureau of Tax Administration
Post Office Box 942850
Sacramento, CA 94250

Once the county has paid the underremitted State Court Facilities Construction Fund amount, we will calculate a penalty on the underremitted amount and bill the county accordingly, in accordance with Government Code sections 68085, 70353, and 70377.

The county disputes certain facts related to the conclusions and recommendations contained in this audit report. The SCO has an informal audit review process by which to resolve a dispute of facts. To request a review, the county should submit, in writing, within 60 days after receiving the final report, a request for a review, along with supporting documents and information pertinent to the disputed issue(s), to Richard J. Chivaro, Chief Counsel, State Controller's Office, Post Office Box 942850, Sacramento, CA 94250-0001. In addition, please provide a copy of the request letter to Steve Mar, Chief, Local Government Audits Bureau, State Controller's Office, Division of Audits, Post Office Box 942850, Sacramento, CA 95250-5874.

If you have any questions, please contact Mr. Mar at (916) 324-7226.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/vb

cc: Stan Eller, Presiding Judge
Superior Court of California for Mono County
Marshall Rudolph, County Counsel
Mono County
John Judnick, Senior Manager
Internal Audit Services
Judicial Council of California
Julie Nauman, Executive Officer
Victim Compensation and Government Claims Board
Greg Jolivet
Legislative Analyst's Office
Scott Taylor, Fiscal Analyst
Division of Accounting and Reporting
State Controller's Office
Cindy Giese, Supervisor, Tax Programs Unit
Division of Accounting and Reporting
State Controller's Office
Richard J. Chivaro, Chief Counsel
State Controller's Office

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Audit Report

Summary

The State Controller's Office (SCO) performed an audit to determine the propriety of court revenues remitted to the State of California by Mono County for the period of July 1, 2003, through June 30, 2009.

Our audit disclosed that the county underremitted \$121,920 (net) in court revenues to the State Treasurer because it:

- Overremitted the 50% excess of qualified fines, fees, and penalties by \$75,666;
- Underremitted State Court Facility Construction Fund penalties by \$191,711; and
- Underremitted evidence-of-financial-responsibility fees by \$5,875.

Background

State statutes govern the distribution of court revenues, which include fines, penalties, assessments, fees, restitutions, bail forfeitures, and parking surcharges. Whenever the State is entitled to a portion of such money, the court is required by Government Code section 68101 to deposit the State's portion of court revenues with the county treasurer as soon as practical and to provide the county auditor with a monthly record of collections. This section further requires that the county auditor transmit the funds and a record of the money collected to the State Treasurer at least once a month.

Government Code section 68103 requires that the State Controller determine whether or not all court collections remitted to the State Treasurer are complete. Government Code section 68104 authorizes the State Controller to examine records maintained by any court. Furthermore, Government Code section 12410 provides the State Controller with general audit authority to ensure that state funds are properly safeguarded.

Objective, Scope, and Methodology

Our audit objective was to determine whether the county completely and accurately remitted court revenues in a timely manner to the State Treasurer for the period of July 1, 2003, through June 30, 2009. We did not review the timeliness of any remittances the county may be required to make under Government Code sections 70353, 77201.1(b)(1), and 77201(b)(2).

To meet our objective, we reviewed the revenue-processing systems within the Superior Court of Mono County and the Finance Director's Office.

We performed the following procedures:

- Reviewed the accuracy of distribution reports prepared by the county, which show court revenue distributions to the State, the county, and the cities located within the county.
- Gained an understanding of the county's revenue collection and reporting processes by interviewing key personnel and reviewing documents supporting the transaction flow.
- Analyzed various revenue accounts reported in the county's monthly cash statements for unusual variations and omissions.
- Evaluated the accuracy of revenue distribution using as criteria various California codes and the SCO's Manual of Accounting and Audit Guidelines for Trial Courts.
- Tested for any incorrect distributions.
- Expanded any tests that revealed errors to determine the extent of any incorrect distributions.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We did not audit the county's financial statements. We considered the county's internal controls only to the extent necessary to plan the audit. This report relates solely to our examination of court revenues remitted and payable to the State of California. Therefore, we do not express an opinion as to whether the county's court revenues, taken as a whole, are free from material misstatement.

Conclusion

Mono County underremitted \$121,920 (net) in court revenues to the State Treasurer. The underremittances are summarized in Schedule 1 and described in the Findings and Recommendations section.

Follow-Up on Prior Audit Findings

The county has satisfactorily resolved the findings noted in our prior audit report, issued April 23, 2004, with the exception of traffic violator school fees (Finding 2), state restitution (Finding 6), and proof-of-correction fees (Finding 7).

**Views of
Responsible
Officials**

We issued a draft audit report on June 9, 2010. Brian Muir, Director of Finance, responded by letter dated June 28, 2010 (Attachment A), agreeing with the audit results. Further, Hector Gonzalez Jr., Court Executive Officer, responded by letter dated July 30, 2010 (Attachment B), agreeing with the audit results with the exception of Findings 3, 6, and 7.

Restricted Use

This report is solely for the information and use of Mono County, the Superior Court of Mono County, the Judicial Council of California, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

March 4, 2011

**Schedule 1—
Summary of Audit Findings by Fiscal Year
July 1, 2003, through June 30, 2009**

Description	Account Title ¹	Code Section	Fiscal Year						Total	Reference ²
			2003-04	2004-05	2005-06	2006-07	2007-08	2008-09		
Overremitted 50% excess of qualified fines, fees, and penalties	Trial Court Improvement Fund	Government Code §77205(a)	\$ 54,209	\$ (53,155)	\$ (15,780)	\$ (8,864)	\$ (25,197)	\$ (26,880)	\$ (75,667)	Finding 1
Underremitted state court facility construction fund penalties and DNA penalty assessments	State Court Construction Penalty Fund	Government Code §76104.7	24,255	23,645	26,274	28,960	32,902	55,675	191,711	Finding 2
Underremitted evidence-of-financial-responsibility fines	State Transportation Fund - \$3	Penal Code §1463.22(b)	198	256	323	265	220	104	1,366	Finding 4
	State General Fund - \$10	Penal Code §1463.22(c)	654	845	1,067	876	725	342	4,509	Finding 4
Net amount underpaid (overpaid) to the State Treasurer			<u>\$ 79,316</u>	<u>\$ (28,409)</u>	<u>\$ 11,884</u>	<u>\$ 21,237</u>	<u>\$ 8,650</u>	<u>\$ 29,241</u>	<u>\$ 121,919</u>	

¹ The identification of state revenue account titles should be used to ensure proper recording when preparing the remittance advice (TC-31) to the State Treasurer.

² See the Findings and Recommendations section.

**Schedule 2—
Summary of Underremittances by Month
Trail Court Improvement Fund
July 1, 2003, through June 30, 2009**

<u>Month</u>	<u>Fiscal Year 2003-04</u>
July	\$ —
August	—
September	—
October	—
November	—
December	—
January	—
February	—
March	—
April	—
May	—
June	<u>54,209</u>
Total underremittances to the State Treasurer	<u>\$ 54,209</u>

**Schedule 3—
Summary of Underremittances by Month
State Court Facilities Construction Fund
July 1, 2003, through June 30, 2009**

Month	Fiscal Year					
	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
July	\$ 2,021	\$ 1,970	\$ 2,189	\$ 2,413	\$ 2,741	\$ 4,639
August	2,021	1,970	2,189	2,413	2,741	4,639
September	2,021	1,970	2,189	2,413	2,742	4,639
October	2,021	1,970	2,189	2,413	2,742	4,639
November	2,021	1,970	2,189	2,413	2,742	4,639
December	2,021	1,970	2,189	2,413	2,742	4,640
January	2,021	1,970	2,190	2,413	2,742	4,640
February	2,021	1,971	2,190	2,413	2,742	4,640
March	2,021	1,971	2,190	2,414	2,742	4,640
April	2,022	1,971	2,190	2,414	2,742	4,640
May	2,022	1,971	2,190	2,414	2,742	4,640
June	2,022	1,971	2,190	2,414	2,742	4,640
Total underremittances to the State Treasurer	<u>\$ 24,255</u>	<u>\$ 23,645</u>	<u>\$ 26,274</u>	<u>\$ 28,960</u>	<u>\$ 32,902</u>	<u>\$ 55,675</u>

NOTE: Delinquent State Court Facilities Construction Fund remittances not remitted to the SCO within 45 days of the end of the month in which the fees were collected are subject to penalty, pursuant to Government Code section 70377. The SCO will calculate and bill the county for the penalty after the county pays the underlying amount owed.

**Schedule 4—
Summary of Overremittances by Month
July 1, 2003, through June 30, 2009**

Month	Fiscal Year					
	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
July	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —
August	—	—	—	—	—	—
September	—	—	—	—	—	—
October	—	—	—	—	—	—
November	—	—	—	—	—	—
December	—	—	—	—	—	—
January	—	—	—	—	—	—
February	—	—	—	—	—	—
March	—	—	—	—	—	—
April	—	—	—	—	—	—
May	—	—	—	—	—	—
June	—	53,155	15,780	8,863	25,197	26,880
Total underremittances to the State Treasurer	<u>\$ —</u>	<u>\$ 53,155</u>	<u>\$ 15,780</u>	<u>\$ 8,863</u>	<u>\$ 25,197</u>	<u>\$ 26,880</u>

NOTE: Delinquent State Court Facilities Construction Fund remittances not remitted to the SCO within 45 days of the end of the month in which the fees were collected are subject to penalty, pursuant to Government Code section 70377. The SCO will calculate and bill the county for the penalty after the county pays the underlying amount owed.

Findings and Recommendations

FINDING 1— Overremitted 50% excess of qualified fines, fees, and penalties

The County Director of Finance's Office overremitted by \$75,666 the 50% excess qualified fines, fees, and penalties to the State Treasurer for the five of the six fiscal years (FY) period starting July 2003, ending June 30, 2009 by \$75,666.

Government Code (GC) section 77201(b)(2) requires Mono County for its base revenue obligation to remit \$415,136 for FY 1998-99 and each year thereafter. In addition, GC section 77205(a) requires the county to remit 50% of the qualified revenues which exceed the state base for each fiscal year to the State Trial Court Improvement Fund.

The error occurred because incorrect entries were used in the county's distribution working papers and the fiscal impact of conditions identified in this report's findings is as follows:

- As stated in Finding #2, the Mono County Superior Court did not correctly distribute the required deductions from traffic violator school fees for state court facility construction fund penalties (Immediate & Critical Needs Account). The adjustment caused a decrease in TVS penalty fees by \$137,365 (77% of (\$204,154 - \$12,879 - \$12,879)) as part of the MOE calculations.
- As stated in Finding #4, the Mono County Superior Court did not appropriately deduct proof-of-insurance fees from county base fines for the convictions. The adjustment caused a decrease in county base fines by \$2,255 (75% of \$3,006) as part of the MOE calculations.
- When preparing the MOE, the county incurred scheduling errors from the court that did not include all revenues for a proper calculation. The adjustment caused the following increases: county base fines by \$66,731, 30% of eligible state penalties by \$42,527, traffic violator school (TVS) fees by \$153,611, 100% of traffic violator school (TVS) \$24 fees by \$24,530, and administrative screening fees by \$1,801. A net total of \$291,205 should have been included in the MOE.
- When preparing the MOE, the county incurred scheduling errors from the court that inappropriately included revenues for a proper calculation. The adjustment caused the following decreases: county base fines by \$204,884 and traffic violator school (TVS) fees by \$45,406. A net total of \$250,290 should not have been included in the MOE.

The qualified revenues reported for the FY 2003-04 were \$523,555. The excess, above the base of \$415,136, is \$108,418 and should be divided equally between the county and the state resulting in \$54,209 excess due the state. A previous payment was not remitted by the county, causing an underremittance of \$54,209.

The qualified revenues reported for the FY 2004-05 were \$475,032. The excess, above the base of \$415,136, is \$59,896 and should be divided equally between the county and the state resulting in \$29,948 excess due the state. A previous payment of \$83,103 has been remitted by the county, causing an overremittance of \$53,155.

The qualified revenues reported for the FY 2005-06 were \$504,583. The excess, above the base of \$415,136, is \$89,447 and should be divided equally between the county and the state resulting in \$44,723 excess due the state. A previous payment of \$60,504 has been remitted by the county, causing an overremittance of \$15,780.

The qualified revenues reported for the FY 2006-07 were \$524,578. The excess, above the base of \$415,136, is \$109,442 and should be divided equally between the county and the state resulting in \$54,721 excess due the state. A previous payment of \$63,585 has been remitted by the county, causing an overremittance of \$8,863.

The qualified revenues reported for the FY 2007-08 were \$589,403. The excess, above the base of \$415,136, is \$174,267 and should be divided equally between the county and the state resulting in \$87,134 excess due the state. A previous payment of \$112,330 has been remitted by the county, causing an overremittance of \$25,197.

The qualified revenues reported for the FY 2008-09 were \$643,359. The excess, above the base of \$415,136, is \$228,223 and should be divided equally between the county and the state resulting in \$114,111 excess due the state. A previous payment of \$140,992 has been remitted by the county, causing an overremittance of \$26,880.

The under-and overremittances had the following effect:

Account Title	Understated/ (Overstated)
Trial Court Improvement Fund–Government Code section 77205:	
FY 2003-04	\$ 54,209
FY 2004-05	(53,155)
FY 2005-06	(15,780)
FY 2006-07	(8,863)
FY 2007-08	(25,197)
FY 2008-09	(26,880)
County General Fund	<u>\$ (75,666)</u>

Recommendation

The county should reduce remittances to the State Treasurer by \$75,666 and report on the remittance advice (TC-31) a decrease to the Trial Court Improvement Fund–GC section 77205. The county should also make the corresponding account adjustments.

County's Response

The County agrees with the finding in the draft report.

Court's Response

The Court finds no exception with this finding and will work with the County to implement the SCO's recommendations.

SCO's Comment

This findings' monetary end result has changed as a result of SCO's recalculations disclosed in Finding 2.

**FINDING 2—
Underremitted state
court facility
construction fund
penalties**

The Mono County Superior Court understated State Court Facility Construction Fund penalties by \$191,711 in the distribution of TVS fees. In the implementation of the court's new automated ISD system, the court entered an incorrect factor and did not make the required distributions from TVS fees.

Effective January 1, 2003, GC section 70372(a) states that a state court construction penalty shall be levied, in the amount of \$5 for every \$10 or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses (to include infractions of Vehicle Code (VC) section 42007 traffic violator school fees). Prior to an agreement between the county and Judicial Council (State) for responsibility for court house construction and maintenance, the penalties remitted to the State are reduced by the difference, if any, between the \$5 and the amount of the local penalty remitted to the local courthouse construction fund pursuant to GC section 76100, but are not limited to the penalty provided by Penal Code (PC) section 1464.

Effective January 1, 2009, GC section 70372(a) is amended as otherwise provided in subdivision (b) of Section 70375; this section state that a state court construction penalty shall be levied in the amount of \$5 for every \$10 or fraction thereof upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses. This penalty is in addition to any other state or local penalty, including, but not limited to, the penalty provided by PC section 1464 and GC section 76000 and shall be deposited into the Immediate and Critical Needs Account of the state court facilities construction fund.

Effective January 1, 2000, for all traffic school violations, VC section 42007 requires \$2 for every \$7 that would have been collected pursuant to GC section 76000 on a fine distribution to be deposited in the Emergency Medical Services Fund (Maddy Fund).

Effective January 1, 2006, upon county board resolution, the county board of supervisors may elect to levy an additional penalty in the amount of \$2 for every \$10 or fraction thereof upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses. This penalty shall be collected together with and in the same manner as the amounts established by PC section 1464.

The court's failure to properly distribute TVS fees affected the county's calculation of revenues reported to the State Trial Court Improvement Fund under the MOE formula (see Finding 1).

The incorrect distributions for TVS bail fees had the following effect:

Account Title	Understated/ (Overstated)
State Court Facilities Construction Fund–Immediate and Critical Needs Account–GC section 70372(a)	\$ 191,711
EMS–\$2 Maddy Fund–VC section 42007	(3,840)
EMS–\$2 Additional Penalty–GC section 76000.5	16,283
Traffic Violator School Penalties–VC section 42007	(204,154)

Recommendation

The county should remit \$191,711 to the State Treasurer and report on the remittance advice form (TC-31) an increase to the State Court Facilities Construction Fund–GC section 70372(a). The county should also make the corresponding account adjustments.

The Mono County Superior Court should prepare a redistribution adjustment for the corresponding accounts for the period of July 2009 through the date on which the current system is revised. The court should do so in a timely manner, in order to reduce penalties that could be incurred by the county due to errors at the court level.

County's Response

The County agrees with the finding in the draft report.

Court's Response

The court finds no exception with this finding. The Court will prepare a redistribution adjustment for the corresponding accounts for the period of July 2009 through the date the current system is revised to reduce penalties that could be incurred by the County as a result of errors at the court level.

SCO's Comment

After the issuance of the draft audit report, it was discovered that the SCO auditor inadvertently included distributions to the two DNA penalty assessments during the measurement analysis of the court's distributions to the Traffic Violator School Penalty account. For traffic school violations, the DNA penalty assessment and the additional penalty assessment are part of the total bail. Therefore, it is part of the traffic

violation school fee pursuant to VC section 42007. There is no specific distribution to either of the DNA Identification Funds from the traffic violator school fee; thus, like PC 1464, it is part of VC section 42007. As a result of this disclosure, SCO has recomputed the measurement analysis of the court's Traffic Violator School Penalty account to exclude distributions to the two DNA penalty assessment accounts. Therefore, this finding has changed.

**FINDING 3—
Overremitted Fish
and Game fines and
penalties**

The Mono County Superior Court distributed 100% of Fish and Game fines to the State, and overremitted the state share of penalties in the amount of \$10,066 after deducting the allowable 2% court automation fee. In the implementation of the new automated ISD system, the court overlooked splitting the Fish and Game fines 50% between the State and the county, and overstated related penalty assessments for Fish and Game violations.

Fish and Game Code (F&GC) section 13003 requires that Fish and Game fines be distributed 50% each to the State Fish and Game Preservation Fund and the county's Fish and Wildlife Propagation Fund.

The incorrect distributions for Fish and Game fines had the following effects:

<u>Account Title</u>	<u>Understated/ (Overstated)</u>
State Fish and Game Preservation Fund–F&GC section 13003	\$ (4,540)
State Penalty Fund–Fish and game assessment @ 70%–PC section 1464	(5,526)
County Fish and Game Wildlife Propagation Fund	18,516
County General Fund–Fish and game assessment @ 30%–PC section 1464	(271)
County General Fund–Fish and game assessment–GC section 76000	(8,179)

Recommendation

The county should report on the remittance advice form (TC-31) a decrease of \$4,540 to the State Fish and Game Preservation Fund and a decrease of \$5,526 to the State Penalty Fund–Fish and Game Assessment. Additionally, the court should report an increase of \$18,516 to the County Fish and Game Wildlife Propagation Fund, a decrease of \$271 to the County General Fund–Fish and Game Assessment–30% State Penalties, and a decrease of \$8,179 to the County General Fund–Fish and Game Assessment–County Penalties. The county should also make the corresponding account adjustments.

The Mono County Superior Court should prepare a redistribution adjustment for the corresponding accounts for the period of July 2009 through the date on which the current system is revised.

County's Response

The County agrees with the finding in the draft report.

Court's Response

The SCO Auditor was unaware that these penalties are indeed split, but on a monthly aggregate level of all combined penalties at one time, not on an individual case basis. As seen on our BFA 540 Report (The monthly report of all collected fines, fees, forfeitures and their corresponding percentage, copy is attached) the distribution is as follows (Refer to attachment BFA540 P13/15 & 14/15:

The FAG (Fish and Game Assessment 70% PC1464) has 2% deducted and then added to the AUF (2% automation fund GC68090.8). The FAG is then split 50% to the county general fund (CGF). The remaining amount in the FAG is remitted to the State.

This is only done once a month; until the end of the month, on an individual case basis it appears that the full amount stays in FAG which is for the state. Please review and make any appropriate changes to the Auditor's report.

SCO's Comment

In its response, the court states that it disputes the finding and provides additional information that disagrees with the SCO's conclusions. Based on the court's response and further SCO review of supporting documentation, the SCO has changed our position and accepts the court's explanation.

The finding is changed to accept the court argument that distributions for Fish and Game fines and penalties are being properly distributed, and there will be no monetary finding issued against the court.

FINDING 4— Underremitted evidence-of-financial- responsibility fees

The Mono County Superior Court imposed convictions for the infraction of evidence of financial responsibility, VC section 16028, but did not make the required distribution to the State General Fund and the State Transportation Fund in the amount of \$5,875. In the implementation of the court's new automated ISD system, the court overlooked inputting the required distribution for convictions of proof-of-financial-responsibility from base fines.

A \$30.50 fee on each conviction of a proof of financial responsibility violation identified under PC section 16028 is required to be distributed per conviction in this matter: \$17.50 to the County General Fund pursuant to PC section 1463.22(a), \$10 to the State General Fund pursuant to PC section 1463.22(c), and \$3 to the State Transportation Fund pursuant to PC section 1463.22(b).

The revenue not distributed for the evidence-of-financial-responsibility convictions affect the county's calculation of revenues reported to base fines under the MOE formula pursuant to GC section 77205.

The court's failure to properly distribute base fines from convictions of evidence-of-financial-responsibility fees affected the county's calculation of revenues reported to the State Trial Court Improvement Fund under the MOE formula (see Finding 1).

The incorrect distributions for evidence-of-financial-responsibility fees had the following effect:

Account Title	Understated/ (Overstated)
County General Fund (\$17.50)–PC section 1463.22(a)	\$ 7,789
State Transportation Fund (\$3)–PC section 1463.22(b)	1,366
State General Fund (\$10)–PC section 1463.22(c)	4,509
County General Fund Base Fines–PC section 1463.001	(3,006)
City Base Fines – Mammoth Lakes–PC section 1463.002	(10,558)

Recommendation

The county should remit \$5,875 to the State Treasurer and report on the remittance advice form (TC-31) an increase of \$1,366 to the State Transportation Fund (\$3) and an increase of \$4,509 to the State General Fund (\$10). The county should also make the corresponding account adjustments.

The Mono County Superior Court should prepare a redistribution adjustment for the corresponding accounts for the period of July 2009 through the date on which the current system is revised. The court should do so in order to reduce penalties that could be incurred by the county as a result of errors at the court level.

County's Response

The County agrees with the finding in the draft report.

Court's Response

The Court finds no exceptions to this finding. The Court will prepare a redistribution adjustment for the corresponding accounts for the period of July 2009 through the date the current system is revised to reduce penalties that could be incurred by the county as a result of errors at the court level.

**FINDING 5—
Inconsistent
identification of
arresting entities**

The Mono County Superior Court had citations issued by the California Highway Patrol within the city limits of Mammoth Lakes, but the distribution process within its ISD system distributed the base fines as a county-based arrest. Superior Court personnel may be imputing the wrong arresting entity into the ISD system.

PC section 1463 states that “City arrest” means an arrest by an employee of a city, or by a California Highway Patrol officer within the limits of a city; and “County arrest” means an arrest by a California Highway Patrol officer outside the limits of a city, or any arrest by a county officer or by any other state officer.

The incorrect identification of arresting entities results in a shortfall of base fine distribution to the appropriate arresting entity. We did not measure the dollar effect, as it did not appear to be material and because doing so would not have been cost effective in the redistribution of the various accounts.

Recommendation

The Mono County Superior Court should ensure that all citations entered into its ISD system identify the correct arresting entity in accordance with the statutory requirements under PC section 1463.

County’s Response

The County agrees with the finding in the draft report.

Court’s Response

The court finds no exceptions to this finding. The court will implement the auditor’s recommendation and will amend its case management system to correctly identify the arresting entity in accordance to Penal Code section 1463.

**FINDING 6—
Inconsistent
distributions on
DUI cases**

The Mono County Superior Court had a Driving-Under-the-Influence (DUI) case in which the distribution for restitution fine was assessed at \$70 instead of \$100, and court security fee was assessed at \$40 instead of \$20. Superior Court personnel overlooked inputting the correct distributions within its ISD system.

PC section 1202.4 states that, in every case where a person is convicted of a crime, the court shall impose a separate and additional restitution fine, the restitution fine shall be set at the discretion of the court and commensurate with the seriousness of the offense, but shall not be less than \$200, and not more than \$10,000, if the person is convicted of a felony, and shall not be less than \$100, and not more than \$1,000, if the person is convicted of a misdemeanor.

PC section 1465.8 states that a fee of \$20 shall be imposed on every conviction for a criminal offense, including a traffic offense, except parking offenses.

The incorrect identification of appropriate distributions on DUI cases results in a shortfall and or overstatement of revenue distributions to the State. We did not measure the dollar effect, as it did not appear to be material and because doing so would not have been cost effective in the redistribution of the various accounts.

Recommendation

The Mono County Superior Court should ensure that all DUI distributions initially entered into its ISD system allocate the correct distributions in accordance with the statutory requirements under PC sections 1202.4 and 1465.8.

County's Response

The County agrees with the finding in the draft report.

Court's Response

Though not a substantive finding, the Court respectfully disagrees with the auditor's finding. The Court's consultant for ISD system matters has reviewed the same cases as the SCO Auditor and found that the all DUI distributions are correctly distributed in accordance with the statutory requirements under Penal Code sections 1202.4 and 1465.8.

SCO's Comment

In its response, the court states that it disputes the finding in that its ISD system is inputting the correct distributions for restitution fines pursuant to PC section 1202.4, and for court security fees pursuant to PC section 1465.8. Based on the court's response, SCO reviewed the sampled cases which were noted with the exceptions and has determined the following:

- The court's case management system history for case MMI09000944 was ordered the minimum restitution fine of \$100, but the distributions of the actual bail payment of \$1,771, which was paid on April 10, 2009, reflected a distribution of only \$70 to the restitution fine account. As stated in PC section 1202.4, in every case where a person is convicted of a crime, the court shall impose a separate and additional restitution fine, which shall be set at the discretion of the court; which the court did impose at the minimum of \$100 in the case history files on a misdemeanor conviction. Therefore, SCO's position on this issue remains unchanged.
- The court's case management system history for case MMI09002203 was in fact ordered court security fees in the amount of \$40 for two specific convictions, \$20 for count 1 and \$20 for count 3, to be added to the total fine. The court did impose the \$20 fee as required for every conviction for a criminal offense, including a traffic offense. Therefore, SCO's position on this issue is changed.

The finding on restitution fines remains unchanged. The finding is changed on the assessment of the court security fees, in that the court did, in fact, impose the correct amount for court security fees where the defendant was convicted on two separate counts.

**FINDING 7—
Inconsistent
distribution on
evidence-of-financial-
responsibility cases**

The Mono County Superior Court did not set up the correct distributions for the 20% surcharge on criminal fines and proof of corrections in two cases sampled. Superior Court personnel overlooked inputting the correct distributions within its ISD system.

PC section 1465.7 states that a state surcharge of 20% shall be levied on the base fine used to calculate the state penalty assessment and this surcharge shall be in addition to the state penalty assessed pursuant to PC section 1464.

VC section 40611 states that the clerk shall collect a \$25 transaction fee for each violation. The fees shall be deposited by the clerk in accordance with GC section 68084. For each citation, \$10 shall be allocated monthly as follows: 33% shall be transferred to the local governmental entity in whose jurisdiction the citation was issued for deposit in the general fund of the entity; 34% shall be transferred to the State Treasury for deposit in the State Penalty Fund, PC section 1464; 33% shall be deposited in the county general fund; and the remainder of the fees collected on each citation shall be deposited in the Immediate and Critical Needs Account of the State Court Facilities Construction Fund, established in GC section 70371.5.

The incorrect identification of appropriate distributions on traffic infractions results in a shortfall of revenue distributions to the State. We did not measure the dollar effect, as it did not appear to be material and because doing so would not have been cost-effective in the redistribution of the various accounts.

Recommendation

The Mono County Superior Court should ensure that all evidence-of-financial-responsibility cases initially entered into its ISD system allocate the correct distributions in accordance with the statutory requirements under PC section 1465.7 and VC section 40611.

County's Response

The County agrees with the finding in the draft report.

Court's Response

The Court respectfully disagrees with the auditor's finding. As is the case in finding three, the SCO Auditor was unaware that these penalties are indeed split, but on a monthly aggregate level of all combined penalties at one time, not on an individual case basis. See attachment titled "Audit Finding #7" prepared by the Court's case management system consultant.

SCO's Comment

In its response, the court states that it disputes the finding in that its ISD system is inputting the correct distributions for penalties which are split in the aggregate at month-end and not on an individual basis. Based on the courts' response, SCO reviewed the sampled cases that were noted not to have distributions for the 20% State Surcharge on criminal fines and for proof-of-correction fees.

Of the six cases involving convictions for proof-of-insurance violations (uninsured motorists) within the court's case management system history files, two of the cases, MTR06005586 and BTR06002490, did not reflect distributions for the 20% State Surcharge while the other four cases did in fact have the appropriate distributions for the 20% State Surcharge. The 20% State Surcharge is to be levied on all criminal base fines used to calculate the state penalty assessment, as specified in PC section 1464. Therefore, the same base fine used in calculating the state penalty is used in calculating the 20% State Surcharge.

For the two cases involving proof-of-correction fees, MTR06005586 and BTR06002490, which did reflect a \$10 distributions to one account entitled "DCO," which is for proof-of-correction distribution to the county. We were not made aware during the course of the audit that this type of distribution was a distribution done in the aggregate at month-end by the court. However, after further review of the court's supporting documentation for this type of distribution, and the review of the other distribution accounts for proof-of-correction, DML (for the City of Mammoth Lakes), and SPC (for distribution to the State), we accept the court's argument that these types of fees are in fact being distributed correctly at month-end.

The finding on the 20% State Surcharge remains unchanged; and the finding is changed on proof-of-correction fees, in that the court is making the appropriate distributions.

**FINDING 8—
Incomplete closure of
bail bond registry**

The Mono County Superior Court did not finalize the closure of one of five bail bonds that was forfeited and then exonerated within its automated bail bond registry. Superior Court personnel overlooked reviewing the status of the automation bond registry within the ISD system.

The Manual of Accounting and Audit Guidelines for Trial Courts, section 7.13, states that a separate register should be maintained for all surety bonds received by the court with the minimum contents, bond number, date bond deposited, amount of bond name of surety, name of defendant, case number and final disposition of bond and date of disposition.

The incomplete disposition of a bail bond could result in a loss of revenues to the city or county of the arresting entity.

Recommendation

The Mono County Superior Court should ensure that a cyclic review is conducted of its automated bail bond register to ensure that the court does not overlook executing the required summary judgments and finalizing bail bond actions.

County's Response

The County agrees with the finding in the draft report.

Court's Response

The Court finds no exceptions, appreciates the auditor's recommendation and will ensure that a cyclic review of the automated bail bond register is conducted to ensure the execution of required summary judgments and finalized bail bond actions.

**Attachment A—
Mono County Department of Finance's
Response to Draft Audit Report**



DEPARTMENT OF FINANCE COUNTY OF MONO

Rosemary Glazier
Assistant Finance Director
Treasurer-Tax Collector

Brian Muir
Finance Director

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June 28, 2010

Mr. Steven Mar
Chief, Local Governments Audit Bureau
State Controller's Office, Division of Audits
PO Box 942850
Sacramento, CA 94250-5874

Re: Mono County Draft Audit Report Court Revenues July 1, 2003 through June 30, 2009

Dear Mr. Mar:

The County agrees with the findings in the draft report. We would like to compliment Mr. Robertson on the professional and efficient way he conducted the audit.

Sincerely,

A handwritten signature in dark ink, appearing to read "Brian Muir", is written over a light blue circular stamp.

Brian Muir

**Attachment B—
Court's Response to
Draft Audit Report**



**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONO**

STAN ELLER
Presiding Judge

HECTOR GONZALEZ, JR.
Court Executive Officer

452 Old Mammoth Rd. Third Floor
Mailing Address: P.O. Box 1037
Mammoth Lakes, CA 93546
(760) 924-5444

July 30, 2010

Steven Mar, Chief
Local Government Audits Bureau
State Controllers Office
Division of Audits
P.O. Box 942850
Sacramento, CA. 94250-5874

Dear Mr. Mar:

Thank you for the opportunity to respond to the State Controllers Office (SCO) audit of Mono County's court revenues for the period of July 1, 2003, through June 30, 2009.

After careful review of the findings the Superior Court has come to the following conclusions:

Finding 1: The Court finds no exception with this finding and will work with the County to implement the SCO's recommendations.

Finding 2: The Court finds no exception with this finding. The Court will prepare a redistribution adjustment for the corresponding accounts for the period of July 2009 through the date the current system is revised to reduce penalties that could be incurred by the County as a result of errors at the court level.

Finding 3: The court respectfully disagrees with the auditor's finding. The Finding States:
"The Mono County Superior Court distributed 100% of Fish and Game fines to the State, and over remitted the State share of penalties in the amount of \$10,066 after deducting the allowable 2% court automation fee. In the implementation of the new automated ISD system, the court overlooked splitting the Fish and Game

finer 50% between the State and the county, and overstated related penalty assessments for Fish and Game violations.”

Response: The SCO Auditor was unaware that these penalties are indeed split, but on a monthly aggregate level of all combined penalties at one time, not on an individual case basis. As seen on our BFA 540 Report (The monthly report of all collected fines, fees, forfeitures and their corresponding percentage, copy is attached) the distribution is as follows (Refer to attachment BFA540 P13/15 &14/15):

The FAG (Fish and Game Assessment 70% PC1484) has 2% deducted and then added to the AUF (2% automation fund GC68090.8).

The FAG is then split 50% to the county general fund (CGF).

The remaining amount in the FAG is remitted to the State.

This is only done once a month; until the end of the month, on an individual case basis it appears that the full amount stays in FAG which is for the state. Please review and make any appropriate changes to the Auditor’s report.

Finding 4: The Court finds no exceptions to this finding. The Court will prepare a redistribution adjustment for the corresponding accounts for the period of July 2009 through the date the current system is revised to reduce penalties that could be incurred by the county as a result of errors at the court level.

Finding 5: The Court finds no exceptions to this finding. The Court will implement the auditor’s recommendation and will amend its case management system to correctly identify the arresting entity in accordance to Penal Code section 1463.

Finding 6: Though not a substantive finding, the Court respectfully disagrees with the auditor’s finding. The Finding States: “The Mono County Superior Court had a Driving-Under-the-Influence (DUI) case in which the distribution for restitution fine was assessed at \$70 instead of \$100, and court security fee was assessed at \$40 instead of \$20. Superior Court personnel overlooked inputting the correct distributions within their ISD system.”

Response: The Court’s consultant for ISD system matters has reviewed the same cases as the SCO Auditor and found that the all DUI distributions are correctly distributed

in accordance with the statutory requirements under Penal Code sections 1202.4 and 1465.8.

Finding 7: The Court respectfully disagrees with the auditor's finding. The Finding States:
"The Mono County Superior Court did not set up the correct distributions for the 20% surcharge on criminal fines and proof of corrections in two cases sampled. Superior Court Personnel overlooked inputting the correct distributions within the ISD system."

Response: As is the case in finding three, the SCO Auditor was unaware that these penalties are indeed split, but on a monthly aggregate level of all combined penalties at one time, not on an individual case basis. See attachment titled "Audit Finding #7" prepared by the Court's case management system consultant.

Finding 8: The Court finds no exceptions, appreciates the auditor's recommendation and will ensure that a cyclic review of the automated bail bond register is conducted to ensure the execution of required summary judgments and finalized bail bond actions.

In conclusion the Court extends it's thanks to the SCO and it's Auditor for the information provided by your findings and recommendations that will improve our court's operations..

Sincerely,

A handwritten signature in blue ink, appearing to read "Hector Gonzalez Jr.", is written over the printed name.

Hector Gonzalez Jr.
Court Executive Officer

Cc: Judge Stan Eller, Presiding Judge – Superior Court of California for Mono County

Marshall Rudolph, County Counsel – Mono County

Brian Muir, Fiscal Director – Mono County

**State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, CA 94250-5874**

<http://www.sco.ca.gov>